This sample document is derived from a sample document that was the work product of a coalition of attorneys who specialize in venture capital financings working under the auspices of the National Venture Capital Association (the "NVCA") (the "NVCA sample document". See the NVCA website at nvca.org for a list of the Working Group members. The NVCA sample document has been modified by the Corporations Committee of the Business Law Section of the State Bar of California for use by California corporations. The members of the Corporations Committee who had primary responsibility for modifying the NVCA sample documents for use by California corporations are Lemoine Skinner III, Bruce R. Deming, Matthew R. Gemello, Steven R. Harmon, Mark T. Hiraide, William Sawyers, David M. Serepca, James Thompson, and Bertha Willner. Robert Brigham of the NVCA Working Group reviewed these modifications. This document is intended to serve as a starting point only, and should be tailored to meet your specific requirements. This document should not be construed as legal advice for any particular facts or circumstances. Note that this sample presents an array of (often mutually exclusive) options with respect to particular deal provisions. This sample document is based on the NVCA document whose date is set forth in the footer and does not reflect changes in that document.

MANAGEMENT RIGHTS LETTER

Preliminary Note

The assets of a pension plan subject to the Employee Retirement Security Act of 1974 ("ERISA") must be held in trust. Moreover, the persons responsible for managing those assets have significant fiduciary duties under ERISA and cannot engage in certain transactions prohibited by ERISA. If a pension plan covered by ERISA (an "ERISA Plan") invests in a venture fund, then all of the fund's assets—such as its investments in portfolio companies—are treated as assets of the ERISA Plan, absent an exemption. As a result, the trust requirement applies, the managing partner of the fund is treated as an ERISA fiduciary, and the fund must comply with the rules regarding prohibited transactions.

The U.S. Department of Labor, which is charged with administering ERISA, has issued regulations that contain certain exemptions from the plan assets rules. Under one exemption, a venture fund is not deemed to hold ERISA plan assets if it qualifies as a venture capital operating company (a "VCOC"). To qualify as a VCOC, the fund must have at least 50% of its assets invested in venture capital investments. An investment in a portfolio company qualifies as a "venture capital investment" if the fund obtains certain management rights with respect to the portfolio company. "Management rights," in turn, are defined as contractual rights running directly from the portfolio company to the fund that give the fund the right to participate substantially in, or substantially influence the conduct of, the management of the portfolio company. In addition to obtaining management rights, the fund is also required to actually exercise its management rights with respect to one or more of its portfolio companies every year.

In order to build a case for an exemption from the ERISA Plan asset rules, a venture fund will generally ask each of its portfolio companies to sign a management rights letter in connection with the fund's initial investment. An example of such a letter follows.

[PORTFOLIO COMPANY LETTERHEAD]

[Investor]

Re: Management Rights

Ladies and Gentlemen:

This letter will confirm our agreement that pursuant to and effective as of your purchase of [_____] shares of Series [_] Preferred Stock of [_____] (the "**Company**"), [*Investor Name*] (the "**Investor**") shall be entitled to the following contractual management rights, in addition to any rights to non-public financial information, inspection rights, and other rights specifically provided to all investors in the current financing:

1. If Investor is not represented on Company's Board of Directors, Investor shall be entitled to consult with and advise management of the Company on significant business issues, including management's proposed annual operating plans, and management will meet with Investor regularly during each year at the Company's facilities at mutually agreeable times for such consultation and advice and to review progress in achieving said plans.

2. Investor may examine the books and records of the Company and inspect its facilities and may request information at reasonable times and intervals concerning the general status of the Company's financial condition and operations, provided that access to highly confidential proprietary information and facilities need not be provided.

3. If Investor is not represented on the Company's Board of Directors, the Company shall, concurrently with delivery to the Board of Directors, give a representative of Investor copies of all notices, minutes, consents and other material that the Company provides to its directors, except that the representative may be excluded from access to any material or meeting or portion thereof if the Board of Directors determines in good faith, upon advice of counsel, that such exclusion is reasonably necessary to preserve the attorney-client privilege, to protect highly confidential proprietary information, or for other similar reasons. Upon reasonable notice and at a scheduled meeting of the Board or such other time, if any, as the Board may determine in its sole discretion, such representative may address the Board with respect to Investor's concerns regarding significant business issues facing the Company.

Investor agrees that any confidential information provided to or learned by it in connection with its rights under this letter shall be subject to the confidentiality provisions set forth in that certain Investors' Rights Agreement of even date herewith by and among the Company, the Investor and other investors.[1]

[1] If for some reason the Investor is not a party to the Investors' Rights Agreement, you will need to copy the confidentiality provisions from the Investors' Rights Agreement here.

The rights described herein shall terminate and be of no further force or effect upon (a) such time as no shares of the Company's stock are held by the Investor or its affiliates; (b) the consummation of the sale of the Company's securities pursuant to a registration statement filed by the Company under the Securities Act of 1933, as amended, in connection with the firm commitment underwritten offering of its securities to the general public or (c) the consummation of a merger or consolidation of the Company that is effected (i) for independent business reasons unrelated to extinguishing such rights and (ii) for purposes other than (A) the reincorporation of the Company in a different state or (B) the formation of a holding company that will be owned exclusively by the Company's shareholders and will hold all of the outstanding shares of capital stock of the Company's successor. The confidentiality obligations referenced herein will survive any such termination.

Very truly yours,	Agreed and Accepted:
[INVESTOR]	**[COMPANY]**
By:_____	By:_____
Name:_____	Name:_____
Title:_____	Title:_____